

REMARKS

Reconsideration of the application as amended is respectfully requested.

Claims 1, 2 and 4-20 are in the application. Claim 1 has been amended to include the limitation of claim 3, and, accordingly, claim 3 has been canceled. Claims 15-20 have been withdrawn in view of a previous election.

At the onset, Applicant confirms the election of Group I, claims 1-14.

In the Official Action, the claims were rejected on various grounds based on various references. Claim 3 was rejected only on one basis, namely under 35 U.S.C. §103(a) as being allegedly unpatentable over Mussi (EP 0 614 967) in view of Land (U.S. Patent No. 3,630,849). Claim 1 has been amended to include the limitation of claim 3. It is therefore respectfully submitted that all other rejections of claim 1 have been overcome. In addition, the previous rejection of claim 3 will be discussed in terms of amended claim 1.

As indicated above, claim 3 was previously rejected based on a hypothetical combination of Mussi and Land. Specifically, the Examiner asserted that Mussi discloses all of the limitations of previous claims 1 and 3 except for the feature "that the planar surface of the recessed portion includes at least one rib extending therefrom for defining a space between the neck portion of the similar container and the planar surface". To overcome this deficiency, the Examiner asserted that Land discloses a cell culture container in which a "plurality of ribs is provided on the container for defining a space between the top end of the similar container and the planar surface of the original container." The Examiner concluded that "it would have been obvious to incorporate the ribs taught by Land upon the planar surface of the recessed portion of the roller bottle disclosed by Mussi."

The Examiner's assertions are respectfully traversed.

It is respectfully submitted that there is no motivation to combine Mussi and Land as suggested by the Examiner. Furthermore, even assuming *arguendo* that motivation exists to combine Mussi and Land as suggested by the Examiner, the hypothetical combination fails to yield all of the limitations of amended claim 1.

Mussi is directed to a roller bottle assembly which includes a central concave portion 42 sized to partially accommodate the cap and neck portion of an adjacent bottle assembly. (Page 3, lines 57-58). As noted by the Examiner, the planar surface therein is smooth. The Mussi roller bottle assembly also includes a cap 36 for mounting onto the assembly. (Page 3, lines 48-51). As shown in the Figures (e.g., Figures 1 and 5), the cap 36 has a solid top portion. As noted at page 3, lines 49-51, it is preferred that the cap 36 and the neck 32 of the bottle be threaded so that the cap 36 may be left partially opened to allow exchange of gases between the interior and exterior of the bottle assembly. There is no disclosure in Mussi to have gas transmitted through the top portion of the cap 36.

Land is directed to a receptacle and lid combination for molding solidified nutrient containing agar-agar. (Abstract). Figures 1 and 2 depict a receptacle 10 and lid 12 combination. Short projections may be formed on the outer face of the lid, as noted by the Examiner. (Column 2, lines 39-41).

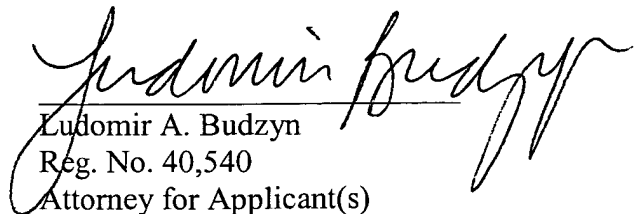
There is no motivation to modify Mussi as suggested by the Examiner. Mussi does not rely on venting through the end of the cap, so air-tight sealing with an adjacent container is not a concern. Rather, Mussi discloses a partially threaded-on cap which allows for sealing under the cap. Since the cap is vented under its open end, there is no

concern with air-tight sealing at the end of the cap, and thus there is no motivation to combine Land with Mussi as suggested by the Examiner.

Even assuming that motivation exists to combine Mussi with Land, the resulting hypothetical combination does not yield all the limitations of amended claim 1. Specifically, Land discloses forming projections on the outer surface of the lid. With the hypothetical combination of Land and Mussi, the cap in Mussi would be provided with projections, not the central concave portion of 42. With the invention of amended claim 1, the roller bottle can advantageously be used with various caps, with no concern as to whether or not projections are formed thereon. It is respectfully submitted that Mussi and Land do not form a *prima facie* basis of obviousness for rejecting the present claims. It is further respectfully submitted that amended claim 1, along with dependent claims 2 and 4-14, are patentable over Mussi and Land, each taken alone or in combination.

Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicant's attorney at the number listed below.

Respectfully submitted,


Ludomir A. Budzyn
Reg. No. 40,540
Attorney for Applicant(s)

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700